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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,779	12/31/2001	Marc Goldberg	15685P113	4780
45222	7590	06/02/2006	EXAMINER	
ARRAYCOMM/BLAKELY 12400 WILSHIRE BLVD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			TSE, YOUNG TOI	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,779

Applicant(s)

GOLDBURG, MARC

Examiner

YOUNG T. TSE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6, 8, 9, 13-17, 20, 21, 24, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 1-17 and 20-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 03, 2006 has been entered.

### ***Claim Objections***

2. Claims 1-17 and 20-28 are objected to because of the following informalities:

In claim 1, lines 16-17, "the second device" should be "the second communication device".

In claim 3, line 3, one of the second signals should be deleted.

In claim 12, the identifier "(Original)" should be "(Currently Amended))" since claim 12 has been amended.

In claim 20, lines 7 and 9, "guard band being" and "the second device" should be "the guard band being" and "the second communication device", respectively.

In claim 25, line 11, "the first device and the second device" should be "the first communication device and the second communication device".

In claim 27, lines 2-3, "the first device and transmitting a second signal from the second device to the first device" should be "the first communication device and transmitting a second signal from the second communication device to the first communication device".

Wherein the dependent claims 2, 4-11, 13-17, 21-24, 26 and 28 are objected to because they are depended upon independent claims 1, 20 and 25.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-6, 8-9, 13-17, 20-21, 24 and 27-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2 (line 3), claim 3 (line 2), claim 4 (lines 2 and 3-4), claim 14 (line 5), claim 20 (line 3), claim 21 (line 3) and claim 27 (line 2), the phrases "a second signal", "a second band-edge channel", "a second predefined maximum system transmission power level", and "a second communication device" are vague and indefinite because none of the precedent claims recites "a first signal", "a first band-edge channel", "a first predefined maximum system transmission power level", and "a first communication device".

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In claim 6 (line 5), claim 8 (line 5), claim 14 (line 2), claims 16-17 (lines 1-2), claim 21 (line 4) and claim 27 (line 3), the phrases "the reduced power level", "the predefined maximum system transmission power level", "the first and second predefined maximum system transmission power levels", and "the assigned power" all lack antecedent basis.

In claims 6 and 8, clarify the difference between "power control mechanism" and "a power control mechanism"?

The dependent claims 5, 9, 13, 24 and 28 are rejected to because they are depended upon independent claims 1, 20 and 25.

***Allowable Subject Matter***

5. Claims 1-17 and 20-28 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

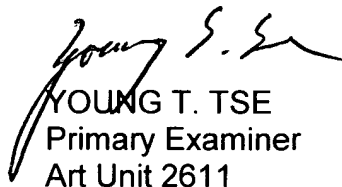
6. Claims 2-6, 8-9, 13-17, 20-21, 24 and 27-28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUNG T. TSE whose telephone number is (571) 272-3051. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



YOUNG T. TSE  
Primary Examiner  
Art Unit 2611